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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/762,023

01/21/2004

Bruce Owen Griffin

4-23009/P1/CGC 2177

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62068 7590 04/08/2008
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EXAMINER

KHAN, AMINA S

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

04/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/762,023	Applicant(s) GRIFFIN ET AL.	
	Examiner AMINA KHAN	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 2, 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-15 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to applicant's amendments filed on January 17, 2008.
2. Claims 1-24 are pending. Claims 1,5,7-9,12,13 and 19 have been amended. Claims 2,16 and 17 have been withdrawn from consideration.
3. The objection to the specification is withdrawn.
4. Claims 1,3,4,9,12,19,20 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Pichler et al. (WO 02/059216) for the reasons set forth in the previous office action.
5. Claims 1,3,4,8,9-12,18-20 and 23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno et al. (US 5,332,404) for the reasons set forth in the previous office action.
6. Claim 21 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Pichler et al. (WO 02/059216) and further in view of Haruta et al. (US 5,718,216) for the reasons set forth in the previous office action.

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7. Claim 21 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno et al. (US 5,332,404) and further in view of Haruta et al. (US 5,718,216) for the reasons set forth in the previous office action.

8. Claims 13,14,15 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Pichler et al. (WO 02/059216) and further in view of Tittmann et al. (US 5,871,669) for the reasons set forth in the previous office action.

9. Claims 13,14,15 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno et al. (US 5,332,404) and further in view of Tittmann et al. (US 5,871,669) for the reasons set forth in the previous office action.

10. Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Pichler et al. (WO 02/059216) and further in view of Loeffler et al. (US 5,403,363) for the reasons set forth in the previous office action.

11. Claims 5 and 24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno et al. (US 5,332,404) and further in view of Loeffler et al. (US 5,403,363) for the reasons set forth in the previous office action.

12. Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Pichler et al. (WO 02/059216) and Loeffler et al. (US 5,403,363) and further in view of Sutter et al. (WO 02/051941) for the reasons set forth in the previous office action.

13. Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno et al. (US 5,332,404) and Loeffler et al. (US 5,403,363) and further in view of Sutter et al. (WO 02/051941) for the reasons set forth in the previous office action.

14. Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Pichler et al. (WO 02/059216) and further in view of Hall (US 5,759,212) for the reasons set forth in the previous office action.

15. Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno et al. (US 5,332,404) and further in view of Hall (US 5,759,212) for the reasons set forth in the previous office action.

Response to Arguments

16. Applicant's arguments filed regarding Pichler et al. and Himeno et al. have been fully considered but they are not persuasive. The applicant's argue that neither reference discloses using instantly claimed dyes of formula I and IV together. The examiner respectfully disagrees. Pichler et al. clearly teach using at least one dye of formulas 14 and 15 together (claim 13), indicating mixtures of these dyes may be used.

Similarly, Himeno et al. teach that dye mixtures comprising at least one dye chosen from dyes of formula (4) and (5) may be used (columns 3 and 4).

Regarding applicant's declaration filed on January 17, 2008, the declaration is insufficient to overcome the rejections because the declaration is not commensurate in scope with the claims and does not directly compare with the compositions of the prior art. The declaration only shows unexpected results for the combination of dyes I and IV in the lightfade results for Cashmere Shade. The Titanium Shade results fail for all three groups and the Ebony Shade does not provide superior properties over using dye IV alone. Furthermore, unexpected results are only provided for a single concentration combination of the dyes. Regarding the prior art the dyes of formula I and IV are included in dye compositions comprising other dyes of the instant claims and the declaration did not provide data for these mixtures. Accordingly, the rejections are maintained.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMINA KHAN whose telephone number is (571)272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/
Primary Examiner, Art Unit 1796

/Amina Khan/
Examiner, Art Unit 1796
April 1, 2008